IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

WP(C).No. 5972 of 2007(J)
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CMA.8/2004 of PRINCIPAL SUB COURT,ATTINGAL
OS.344/2002 of MUNSIFF COURT,ATTINGAL
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PETITIONER:
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1. ASOKAN @ ASOK KUKMAR, S/O. SUKUMARAN, AGED 44 YEARS, RESIDING AT VAYALITHITTA VEEDU, MANJADIMOODU, SARKARA VILLAGE.

2. SINDHU, W/O. ASOKAN, AGED 34 YEARS, RESIDING AT VAYALITHITTA VEEDU, MANJADIMOODU, SARKARA VILLAGE.

BY ADV. SRI.R.S.KALKURA
SRI.M.S.KALESH
SRI.HARISH GOPINATH
SRI.V.VINAY MENON
SRI.KIRAN SANKAR
SMT.KVP.JAYALEKSHMY

RESPONDENT:
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LEELA, S/O. SURENDRAN, AGED 53 YEARS, SUNIL MANDIRAM, MUTTAPPALAM DESOM, AZHOOR VILLAGE.

BY ADV. SRI.G.S.REGHUNATH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Appendix

Petitioners' Exts:

Ext.P1. true copy of the plaint in OS 334/2002.

Ext.P2 true copy of the written statements filed by the 1st petitioner in OS 334/2002.

Ext.P3 true copy of the written statement filed by the 2nd petitioner in OS 334/2002

Ext.P4 true copy of the IA 1746/2002 filed by the respondent/plaintiff.

Ext.P5 true copy of the objection in IA 1746/2002.

Ext.P6 true copy of the IA 1917/2002 filed by the respondent.

Ext.P7 true copy of the objection in IA 1917/2002.

Ext.P8 true copy of the IA 1312/2003.

Ext.P9 true copy of the objection in IA 1312/2003

Ext.P10 true copy of the order dated 5.1.2004 in IA 1746/2002, 1917/2002 and IA 1312/2002 in OS 334/2002

Ext.P11 true copy of the judgment dated 19.7.2006 in CMA 8/2004

**M.N.Krishnan, J.**

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**W.P(C).No.5972 of 2007**

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**Dated this the 14th day of September, 2007.**

**JUDGMENT**

This Writ Petition is filed challenging the order of the learned Munsiff, Attingal and the order of the Subordinate Judge, Attingal. The learned Munsiff while disposing of three applications by a common order, allowed I.A.No.1312 of 2003 whereby he permitted the petitioner therein to enter into plaint 'B' schedule property through the gate installed on the south eastern side of 'B' schedule property for the purpose of reaching the 'A' schedule without causing interference to the peaceful possession and enjoyment of 'B' schedule by the respondents/defendants once in 15 days. This order has been confirmed by the appellate court. Both the courts have arrived at a decision based on facts and matters available and exercising the jurisdiction under Article 227 of the Constitution of India, this Court cannot re-appreciate or reassess the entire matter.

2. I do not find any perversity in the order passed. Therefore, no interference is necessary and therefore the Writ Petition is disposed of accordingly. The trial court is directed to dispose of the suit untrammelled by the observations contained in its order or in the judgment of the appellate court and that too within a time frame of four months from today.

M.N.Krishnan,
Judge.

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